THE HON'BLE MR. JUSTICE G. BIKSHAPATHY

AND

THE HON'BLE MR. JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No. 13963 OF 1998

ORAL ORDER : (per G.B., J.,)

This Writ Petition is filed assailing the order of the A.P.Administrative Tribunal (for short 'Tribunal'), passed in O.A.No.7018 of 1997 with V.M.A.No.743 of 1997, dated 5.5.1998.

2. The petitioner worked as a Jeep driver during N.G.Os strike period in the year 1986. The Government issued instructions in G.O.Ms.No.69, GAD, dated 17-02-1987 etc., to consider the persons who were employed during the strike period for regular appointment whenever the vacancies take place. Since the same was not considered, he filed R.P.No.6119 of 1988 before the Tribunal, seeking a direction to consider his case for appointment. The said R.P. was disposed of on 3.11.1988, directing the respondents to consider the case of the petitioner for appointment as Attender, if he comes within the beneficial ambit of G.O.Ms.No.69, dated 18-02-1987. The applicant was accordingly appointed as Attender in proceedings Rc.No.1227 of 1988, dated 31.12.1988.

3. When the matter stood thus, 3rd respondent issued show cause notice in Rc.C/1227/88, dated 18.8.1992, proposing to terminate his services. Questioning the said show cause notice, he filed O.A.No.5632 of 1992. The said O.A. was disposed of as not maintainable and the applicant was permitted to submit

representation within two weeks. After the representation was submitted, the impugned order dated 15.11.1997 passed by the 2nd respondent, terminating the services of the petitioner. Questioning the said order, he filed present O.A.7018 of 1997. The learned Tribunal disposed of the above O.A., directing the authorities to consider the case of the petitioner for regularization in accordance with G.O.Ms.No.212, dated 22.04.1994, while upholding the order of termination. Against that order, the present writ petition is filed.

4. The learned counsel for the petitioner submits that the termination order cannot be said to be arbitrary or unreasonable inasmuch as he was appointed in pursuance of the directions issued by the Government in G.O.Ms.No.69, dated 17-02-1987. In the said G.O., there is no reference to sponsorship by the Employment Exchange. The learned Tribunal took into consideration the fact that since the petitioner was not sponsored through the Employment Exchange his appoint is illegal. The learned counsel would further submit that the said requirement is not contemplated under G.O.Ms.No.69, dated 17.2.1987. The criteria is that he could have been worked during the strike period and that in case of any regular vacancy, he may be considered on preferential basis. Therefore, the learned counsel submits that the order is liable to be set aside.

5. We have also heard the learned Government Pleader for Services-II.

6. It is not in dispute that the petitioner worked during the strike period as driver and in order to accommodate the persons who came to the rescue of the Government during the strike period, the Government issued G.O.Ms.No.69, dated 17.02.1987 to give preferential treatment to such persons whenever the

regular vacancies arise. A further memo was issued by the Government that such candidates given preferential treatment are to be sponsored by the Employment Exchange. But, however, in the instant case, petitioner was not sponsored by the Employment Exchange, yet in pursuance of the directions of the Tribunal in R.P.No.6119 of 1988, he was appointed as Attender. It is also brought to the notice of this Court that by virtue of the interim orders granted by the Tribunal from time to time, the petitioner was continued in service right from the date of his appointment i.e., 31.12.1988 and he was also granted regular increments. It is also on record that his service register was also opened. Even though there is deficiency with regard to the sponsorship by Employment Exchange, the sequence of events would show that he was continued right from 1988 and on that sole ground, we are not inclined to reject the case of the petitioner for continuance as Attender. Further, even G.O.Ms.No.212 is applied, he will squarely swim within the parameters of that G.O. Under those circumstances, we set aside the orders of the Tribunal.

7. In the result, the Writ Petition is allowed, and the order of the Tribunal and also the orders of termination dated 15-11-1997 are quashed. The respondents are directed to regularize the service of the petitioner in accordance with the rules. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday the Eighteenth day of June, two thousand and four.

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ASSISTANT REGISTRAR

18th June, 2004.

Kvr

// True Copy //

Section Officer

To

1 Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.
2 Deputy Commissioner of Commercial Taxes No. I Division, Vijayawada, Krishna District.
3 Commercial Tax Officer Governorpet, Vijayawada, Krishna District.
4 The Registrar, Andhra Pradesh Admn. Tribunal Purani Haveli, Hyderabad.
5 Two C.Cs to the Government pleader for Services-II, A.P.High Court Buildings, High court of A.P., Hyderabad (O.U.T.)
6. Two C.D.Copies.